

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, SEPTEMBER 22, 2003 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chairperson Camp; Council Members: Cook, Friendt, McRoy, Newman, Svoboda, Werner; Joan Ross, City Clerk.

Council Chair asked all present to stand and recite the Pledge of Allegiance and reflect for a moment of silent meditation.

**READING OF THE MINUTES**

MCROY Having been appointed to read the minutes of the City Council proceedings of September 15, 2003, reported having done so, found same correct.

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

**PUBLIC HEARING**

APPLICATION OF DELRAY BALLROOM AND LOUNGE FOR A CLASS I LIQUOR LICENSE AT 817 R STREET;

MANAGER APPLICATION OF MICHAEL SCOTT GALLOWAY FOR DELRAY BALLROOM AND LOUNGE AT 817 R STREET - Michael Galloway, 1728 14<sup>th</sup> Street, came forward and took the oath.

Annette Erhart, 13314 Adams Street, Weeping Water, NE, came forward. She will be doing the catering for this location.

This matter was taken under advisement.

APPLICATION OF BENCHMARK REDEVELOPMENT, INC. DBA BUZZARD BILLY'S ARMADILLO BAR/GRILL FOR AN ADDITION TO ITS LICENSED PREMISE OF THE BASEMENT AREA MEASURING 65' BY 64', MAKING THE LICENSED PREMISES READ AS THE SOUTH HALF OF THE MAIN FLOOR 70' BY 85' OF A THREE STORY BUILDING, PLUS LOADING DOCK PATIO AREA APPROXIMATELY 20' BY 70' TO THE EAST SIDE OF THE BUILDING, PLUS THE BASEMENT AREA MEASURING 65' BY 64' ON PROPERTY GENERALLY LOCATED AT 247 N. 8TH STREET, SUITE 101 - Daniel Massoth, 5211 English Drive, came forward and took the oath.

This matter was taken under advisement.

DECLARING THE FORMER UNION PACIFIC RIGHT-OF-WAY BETWEEN N. 30TH ST. AND N. 33RD ST., NORTH OF PETER PAN PARK CONSISTING OF APPROXIMATELY 1.5 ACRES, AS SURPLUS PROPERTY AND AUTHORIZING THE EXCHANGE THEREOF. - J. J. Yost, Planning & Construction manager for Public Works, came forward to explain the land exchange.

Marc Wullschleger, Director of Urban Development, came forward to say the department was pleased this developer would be offering additional low-cost housing on this piece of property.

Jerry Hartell, 10215 N. 214<sup>th</sup> St., Greenwood, NE, came forward and stated he owns property located at 3017 Apple Street. He stated he is concerned about where the egress will enter and exit this property.

Mr. Wullschleger returned to answer questions. He stated that these concerns would be addressed in the final plat. Council Chair Camp asked if the Council will have some opportunity for input as the final plat comes forward. Councilwoman Newman asked if the zoning of the land that we are surplusing is I-1? Mr. Wullschleger said it is zoned I-1 and he didn't have a preliminary plat for use at this time to review. Ms. Newman asked if part of the plat would be a change of zone to R-6. Mr. Wullschleger agreed.

Marvin Krout, Director of Planning Dept., came forward and stated their department hasn't seen the proposed layout yet and those are issues that have to be addressed satisfactorily as the property is re-zoned and it would be accompanied by a plat.

This matter was taken under advisement.

CHANGE OF ZONE 3416 - APP. OF WITHERBEE NEIGHBORHOOD ASSOC. FOR A CHANGE FROM R-4 RESIDENTIAL TO R-2 RESIDENTIAL ON PROPERTY GENERALLY LOCATED BETWEEN THE WEST SIDE OF S. 37TH ST. AND THE EAST SIDE OF S. 42ND ST., FROM J ST. TO RANDOLPH ST., CONSISTING OF APPROXIMATELY 12 BLOCKS - Mike Fitzgerald, 3794 "H" Street, President of the Witherbee Neighborhood Association, came forward in favor.

Kevin Ward, 3754 "H" Street, Vice President of Witherbee Neighborhood Association, came forward in favor. He stated that they had collected 400 signatures in protest to the proposed daycare center.

Councilman Werner asked if any homes were scheduled to be torn down with this potential project. Mr. Ward shows the area affected on the map with J Street residents. Councilman Werner who owned most of the property and Mr. Ward replied that there is one name, Steve Tersel listed. Many subsidiaries are listed after his name. Councilman Svoboda asked if the large home on the long lot would be scheduled for demolition in regards to this potential project. Mr. Ward indicated that was correct.

Tonja Buchholz, 4100 Randolph Street, came forward in favor.

Fred Freytag, 530 So. 38<sup>th</sup> Street, came forward in favor.

Ed Hoffman, 3845 Randolph, came forward in favor.

Mary Morin, 703 So. 37<sup>th</sup> Street, came forward in favor. She requested, on behalf of the Witherbee Neighborhood Association, that more public parks be developed in their neighborhood, due to the fact that so much space has been lost in the Woods Park area.

Kevin Bernadt, 4140 Washington Street, President of 40<sup>th</sup> & A Street Neighborhood Association, came forward in favor.

This matter was taken under advisement.

APPROVING A FOUR-YEAR LEASE AGREEMENT BETWEEN THE CITY AND CAPITAL TOWING INC. FOR A VEHICLE IMPOUND LOT LOCATED AT 101 CHARLESTON ST. (In connection w/03R-249);

APPROVING A FOUR-YEAR CONTRACT BETWEEN THE CITY AND CAPITAL TOWING INC. FOR VEHICULAR TOWING AND STORAGE. (In connection w/03-147)- Darrell Stock, 1115 K Street, Suite 103, Attorney representing Capital Towing Co, came forward to dispel the allegations and innuendos that have been surfacing in the last couple of weeks. He specifically noted two things that they were woefully short on facts and using anonymous affidavits and the second thing is that it doesn't have much to do with the relevancy of the matter at hand. He presented the following points that Capital Towing is in fact the lowest bidder, they have been qualified to do this for the past 8 years, and their past performance record speaks well of them.

Council Chair Camp asked if the Schwartztrauber's were planning to come forward to testify. Mr. Stock indicated they could if there were questions necessary for them to answer.

Shannon Rink, 7340 Colfax Street, came forward in favor.

Jessica Scott, 605 N.W 91<sup>st</sup> Street, came forward in favor.

Louisa Leach, 6126 Logan Steret, came forward in favor.

George Skorohod, 501 So. 120<sup>th</sup> Street, came forward in favor.

Councilman Friendt asked if Mr. Skorohod's company had bid on the towing contract and he indicated they did not.

Scott R. Gropp, Vice President and Compliance Officer with Farmers and Merchants Bank in Milford, NE, 3281 Merrill Street, came forward in favor. Councilman Friendt asked if the Capital Towing Company was a customer of his bank. Mr. Gropp indicated they are not. Council Chair Camp asked about what the condition the vehicles are in that Mr. Gropp purchases at the Lincoln Police Auction. Mr. Gropp responded that it is basically smart on each buyers part to make inspections on the cars you intend to bid on and most of the vehicles are in a state of disrepair. Council Chair Camp asked if a person is able to start the engine and just do a visual inspection. Mr. Gropp indicated visual inspection is best. Council Chair Camp asked about the price range of the cars that are sold at the auction and what would be the price. Mr. Scott indicated that they range in price from \$100 - \$300.00. Councilwoman McRoy asked what happens to the vehicles at the end of the auction. Mr. Gropp said he wasn't sure, but he believed that many of them went to a crusher. Ms. McRoy asked if Capital Towing has an opportunity to bid at the auction. Mr. Gropp indicated that any dealer or private person has that opportunity to attend the auction.

Mike Barnett, 2106 Old Glory Road, came forward in favor.

Ed Holloway, 8302 Sandalwood, came forward in opposition. He presented a handout to Council, which was placed on file. (53)

Councilwoman McRoy asked why Mr. Holloway ended his employment with Capital Towing Company. Mr. Holloway stated he ended his employment because of issues with the dispatcher. Ms. McRoy asked why Mr. Holloway had not reported these allegations previously to the authorities or to the owners of the company, rather than bringing them up now, years after the employment. Mr. Holloway stated he didn't want to raise the concerns that would cause any harm to his body or personal property. He indicated that it was his mistake for not bringing these concerns up earlier. Councilman Cook asked how long it had been since he had been employed with this company. Mr. Holloway indicated it had been about three years now. Councilman Cook questioned the claims against the city, saying if there is theft occurring, why isn't it being reported to the authorities. Mr. Holloway indicated that without an inventory, how could it be proved without an LPD Inventory sheet. Councilman Werner asked about the safety issue regarding the equipment. Mr. Holloway indicated it was more a matter of training the employees how to operate it. Mr. Holloway also stated he questioned if the present equipment has been inspected or is state of the art, as the contract requires.

Terry Hinkle, 1842 West Burnham, former owner of Capital Towing, came forward in opposition. Councilwoman McRoy asked Mr. Hinkle if he now worked in the towing business. Mr. Hinkle indicated that he was not. Council Chair Camp asked about the present condition of the equipment. Mr. Hinkle indicated he believed the dollies to be in bad condition. Councilman Cook asked how many incidents of the cars being towed and having been dropped or other such things that you have personally witnessed. Mr. Hinkle indicated 4 cars being dropped, 2 cars being drug. Mr. Cook asked if these cases were reported to the Lincoln Police. Mr. Hinkle stated he had not because it doesn't do any good. Councilwoman McRoy asked if Mr. Hinkle had been one of the individuals to sign one of the affidavits done by Mr. Van Valkenburg. Mr. Hinkle said he had done so. Councilman Werner asked if he hired Mr. Van Valkenburg. Mr. Hinkle stated he was not involved in that.

Randy Korbelyk, 2921 Loveland Drive, owner of LTR Towing and one of the current bidders for the towing contract, came forward in opposition. Councilman Werner asked if Mr. Korbelyk believed the city should be concerned with the bidder taking a loss on part of the contract. Mr. Werner also asked if Mr. Korbelyk had a suggestion of how this could be handled in four years and before the next contract comes forward. Mr. Korbelyk stated that it would be appropriate to get input from other tow companies due to the fact that equipment and the industry changes all the time. He reported that a lot of larger cities are now using roll backs and flat beds due to the front real drive vehicles and the small tow trucks will be a thing of the past. He also mentioned it will be eight years now before this contract is due for bidding again. Councilman Werner asked what specifically is missing in the bid that should have been included. Mr. Korbelyk stated that prices with all the new equipment, there will probably be different procedures with law enforcement and the other towers should be involved in a forum before a contract comes due, where you can all listen to what the towing community has to say. Councilman Friendt asked Mr. Korbelyk if he towed for the County. Mr. Korbelyk answered in the affirmative. Mr. Friendt asked if they had different inventory process than what has been described here previously today. Mr. Korbelyk said the County does a inventory sheet at the scene on the cars and their company also has to do one in triplicate. Mr. Friendt asked how many tows are done for the county per year and he responded by saying it would be between 4-5,000 cars per year. Council Chair Camp asked about the condition of equipment with the various towing companies here in Lincoln. Mr. Korbelyk stated that the DOT requires inspection of one time per year. The inside of each vehicle has a sticker, and the maintenance, repair and safety records need to be kept in a log as well. Our trucks are DOT inspected and we have to go through the scales between here and Omaha. Mr. Camp asked if a company can certify its own equipment and Mr. Korbelyk replied they could, but he believed this is a law that should definitely be changed. Mr. Camp asked if that was a standard practice, and Mr. Korbelyk indicated that it is the standard practice in the whole state.

Dave Murphy, 1400 Waverly Road, tow truck operator in the City of Lincoln, came forward in opposition. He gave a hand out to the Clerk, which was placed on file.

Don Bowman, Attorney, 1045 Lincoln Mall, Suite #100, representing

LTR Towing, came forward in opposition. He offered two additional affidavits to be placed on file with the City Clerk. Councilman Cook asked why there were no reports from people regarding the stolen articles. Mr. Bowman stated these people are reluctant to come forward and be trashed.

Scott Crippen, 1249 Butler, came forward with a hand out which was placed on file and was in opposition.

Police Chief Tom Casady, came forward to answer Council questions. Councilman Werner asked who actually runs the auto auction. Chief Casady replied that the Police run the auction. Councilman Werner asked about the inventory process. Chief Casady stated it is supposed to be done by both parties, the towing company and the police officers. We do feel that we need to shore up our practices and I don't believe this has been happening regularly enough. However, we plan to have this practice taken more seriously and have a better job done in the future. Councilman Svoboda asked if the inventory is supposed to be on every tow or just those involved in accidents. Chief Casady stated it should be with each towing incident. Councilwoman Newman asked if this differs when a vehicle is involved in a crime. Chief Casady indicated that many times a search warrant is needed first and we follow the vehicle to the lot and make sure it is secured until we have the warrant. Councilman Friendt asked how many tows happen in a year's time. Chief Casady indicated it would be in the thousands. Councilman Friendt asked how many of the cars that are being towed that have owners, the owner is not going to show up to make a complaint. Chief Casady stated that the abandoned vehicles are the most likely to have articles taken from them. Councilman Werner asked if a car that is being towed is unlocked is it illegal for an officer to go into a car. Chief Casady stated they can open a car as long as they don't damage the vehicle. Councilman Werner asked if a city tow would be done without the police involved. Chief Casady stated no. Councilman Werner asked if Chief Casady could respond to Mr. Crippen's 33 page report. Chief Casady responded that he has not seen all the information that has been given to the Council. There would be several hundred police dispatches to the city impound lot over the past couple years. The Chief gave a synopsis last week of the reports regarding the City's Impound Lot. Councilman Cook stated that Mr. Bowman was upset about asking the people who have signed affidavits regarding theft of parts. He then asked if someone could call Crime Stoppers anonymously and report something that is happening and then the Police would take an interest in it. Chief Casady reported they could take that option and many people do. Councilman Cook asked who carried out the inspections, the police department or do you have reports of unsafe equipment? Chief Casady stated the first report of that was from Mr. Crippin regarding defective brakes, and when I researched it, it wasn't listed as such in our records. The contract does state that the contractor shall keep and have all tow trucks available for inspection by the Chief of Police or authorized representative of the City upon notice. There are no regular established inspections done by the Police Dept. Councilwoman McRoy asked if it would behoove us to make the annual inspections of the towing vehicles. Chief Casady stated we could take over the complete towing operation. Chief Casady stated it will cost us a lot more to do. Our costs would be substantially higher and we would have to pass that on to the consumer. Councilman Svoboda stated that four years ago when this contract was initiated, were the allegations similar then. Chief Casady stated he did not have to come before Council four years ago. Councilman Svoboda also asked upon the approval of the contract four years ago, did the Police Dept. do an inspection of the towing vehicles? Chief Casady replied that was the first time he had every heard of that. Councilman Svoboda asked what would have to happen to cause an inspection, like a barrage of accidents? Chief Casady replied that would probably cause an inspection to take place. Councilwoman Newman asked who is the enforcer of the contract. Under point 6 we found that if the contractor is found in substantial breach of contract, that it is immediately terminated. Now what everyone has agreed on here today is that yes, inventorying contents of the vehicles are in the contract, you agree that we need to do a better job, so if we can move forward and say that we are all going to do a better job with that and if it doesn't happen, the contractor is in breach of contract. Chief Casady stated that he agreed. Councilwoman Newman stated that if we don't approve the contract, then it would go to the previous contractor and that is Capital Towing. Councilman Friendt stated that there have been a lot of allegations, would you be able to take a look at complaints lodged against other towers, who tow cars and have them in

their possession for awhile, how do their records compare to Capital's? Chief Casady indicated that he could check it out. The Chief indicated that overall, the problems have been very minimal.

Council Chair Camp asked that Mr. Skorhard return for additional questions. Mr. Camp asked Mr. Skorhard if he could give us an idea of the condition of the equipment that Capital Towing currently has and how it relates to other towing companies. Mr. Skorhard indicated that Capital has numerous drivers and the trucks appear to be in pretty good shape. If there is going to be an error it would more than likely be driver error. Council Chair Camp asked about the DOT inspections. Mr. Skorhard indicated that seems to be a new policy. Council Chair Camp asked if Mr. Skorhard does business with Capital Towing. Mr. Skorhard replied that he buys cars for his salvage yard and only sporadic business. Councilman Svoboda wanted to clarify the DOT inspections for commercial vehicles for a certain weight and higher. You are simply required to have registration numbers, not an inspection. Councilman Werner asked about the cars he purchases. Mr. Skorhard indicated he buys them for his salvage yard and some aren't worth \$25.00.

Vince Mejer, City-County Purchasing Agent, came forward to answer questions. Councilman Werner asked if we could take out the portion of the contract for renewal after four years. Mr. Mejer stated it was basically so we didn't have to go through this. In 1994 we met with all the independent towers and we can meet with them again. Councilman Werner commented that due to the things that are changing so rapidly, it may be necessary. Councilman Werner asked if we could require that the vehicles be inspected by an independent inspector? Mr. Mejer stated that we would have to consult the parties involved, to do that in the present contract. Mr. Mejer informed the Council that this is the police contract, so whatever they want in the contract or bid document is done, as long as it is reasonable and fair to other bidders. Councilman Cook asked if we have to renew in four years. Mr. Mejer indicated we don't have to renew. Mr. Cook stated that at any time we could terminate this contract if they were in violation of some portion of it. Mr. Mejer agreed we could terminate. Mr. Cook asked how different the bid specs were from the one four years ago. Mr. Mejer stated we put in the conviction records of employees and the city owned tows, and other minor tweaks. Councilman Cook asked if someone requested to know the number of city owned tows, you would tell them? Mr. Mejer stated yes. Councilman Friendt asked if Mr. Mejer had experienced feedback that had been different from one towing company to another. Mr. Mejer stated that he talks with peers in other locations and they have the same types of allegations that come up whenever the towing bid is coming up. Councilman Friendt asked regarding the lowest bid, how often do we independently confirm the qualifications, go inspect the trucks, etc.? Mr. Mejer stated this contract is no different from any others. Councilwoman McRoy stated it was 1994 since you last sat down with other tow truck owners and this appears to be the only contract that people come to complain about. Ms. McRoy suggested that maybe the city should take over the city contract. Mr. Mejer stated he wouldn't recommend that. Councilman Friendt asked if this contract, in terms of dollars, ranks in the top 10% of the city's contracts. Mr. Mejer stated it did not. Council Chair Camp asked Mr. Mejer to clarify the renewal, it would make it an eight year contract? Mr. Mejer stated the contract is a definite four year contract and one of the reasons we do that, is so they can amortize their equipment. However, at the end of four years we come back to the city council to recommend renewal or not. We don't go through the bid process again. These prices are firm for the full term of the contract. Council Chair Cook asked what provisions are in the contract that protect the city and it's citizens regarding safety issues. Mr. Mejer replied that we can inspect their equipment at any time and if there are any allegations to that fact, we can inspect.

Mr. Stock returned for rebuttal. Capital Towing has been supplying new equipment since 1999, dollies have been replaced, and they do have fire extinguishers. The unbid cars do go to the towing operator. Councilman Werner asked Mr. Stock if his client would agree to provide the city with independent inspection that meets the DOT requirements. Mr. Stock agreed that they would be willing to do that.

James Schwartztrauber, 4443 St. Paul Ave., President of Capital Towing, came forward to answer questions. Councilman Friendt stated the council had received two affidavits that said they had knowledge of you or the company hauling cars over to another company you own, sounds like salvage or doing it on the impound lot. Have you ever hauled cars to take parts off and to use in your other business? Mr. Schwartztrauber stated that we also have a used car lot and cars that don't sell, or that we receive title to, are on that lot and that number is approximately 160 cars at the present time. We may take a vehicle down to a repair shop to get it repaired to be able to sell it. Mr. Friendt asked if you they had ever transferred cars that they have not received the title for. Mr. Schwartztrauber said we have had cars that the Police Dept. has not had any id on and the Police Dept. direct us to make that car go away. There are cars out there without vehicle identification numbers on them.

This matter was taken under advisement.

**BREAK - 4:40 P.M.**

**RECONVENED - 4:55 P.M.**

ACCEPTING THE REPORT OF NEW & PENDING CLAIMS AGAINST THE CITY & APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF AUGUST 1 - 15, 2003. (9/8/03 - Claim of Stephanie Byrd Placed on Pending & Con't. P. H. in 2 Weeks to 9/22/03) - Dana Roper, City Attorney, came forward to share information regarding this claim. The Public Works Dept. went out to survey the alley and the storm sewer drainage areas. The survey showed that the top of this entryway is 14" higher than the drain in the alley. Councilwoman Newman asked if a basement apartment was made without getting a building permit and if this is legal in our code. Mr. Roper stated we cannot find a record of this being done. We tried checking also with the County Assessor and they were not sure they had records that went back far enough as to when this showed up on the tax rolls as a duplex. Ms. Newman asked if it is legally permitted to be rented as a duplex unit. Mr. Roper deferred this answer to the Building and Safety Dept. Councilwoman McRoy asked if a list was attached that comprises the \$10,000 in Ms. Byrd's claim.

Nicole Fleck-Tooze, Public Works Dept., came forward to answer questions asked by Ms. McRoy. Mr. Faimon stated in his memorandum that there is no evidence that the storm sewer did not function as designed. Ms. McRoy stated she was under the impression that the whole system over there doesn't have a big enough capacity to keep up, so I can't understand why there isn't any evidence of that in this report. Ms. Fleck-Tooze replied that it functioned as it was designed at the time, which was the 1960's time frame. Were it designed today in another area, there would be different requirements and different standards met. I believe Mr. Faimon is saying there wasn't any act by the city that caused that damage. Ms. McRoy asked if we know the storm drains were cleaned out in this area on a regular basis. Ms. Fleck-Tooze stated that from the information she received it would be basically trash from the alley that was found.

Mr. Roper returned to answer additional questions. Councilman Cook asked if we are certain about the legality of this basement apartment and could the property owner be liable for this damage because this could have been prevented if there had been some proper action taken at the time the unit was built. Mr. Roper agreed that was a possibility.

Ms. Fleck-Tooze returned to answer questions. Councilman Cook asked if she knew what entryway height requirements would be. Ms. Fleck-Tooze stated the present day standards is that the lowest opening would be at or above the 100 year storm elevation, to my knowledge there would be nothing to protect it in an existing subdivision. Ms. Fleck-Tooze reported that we are estimating that the rain gauges in that area that it was between a 5 and 10 year storm event.

Councilman Svoboda asked what process do we follow in directing Building and Safety to go out and inspect this property for proper and legal apartment. Mr. Roper stated it could be directed through an RFI and that he would gladly take care of that item.

Councilwoman McRoy stated she had written an RFI for that apartment.

This matter was taken under advisement.

APPEAL OF THE DENIAL OF ISSUANCE OF A PEDDLER PERMIT TO CARISA RISOR BY POLICE DEPARTMENT - PRIOR to reading:

COOK Moved to delay action and continue p.h. one week to 9/29/03.

Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

#### MISCELLANEOUS BUSINESS

Mike Morossin, 2055 S Street, came forward to inform council that the negotiations regarding his property have started. His home is located in the Antelope Valley Project and is slated to be moved.

This matter was taken under advisement.

**\*\* END OF PUBLIC HEARING \*\***

### COUNCIL ACTION

#### LIQUOR RESOLUTIONS

APPLICATION OF BARRYMORE'S FOR A SPECIAL DESIGNATED LIQUOR LICENSE COVERING AN AREA MEASURING 60 FEET BY 20 FEET IN THE ALLEY AT 134 NORTH 13TH STREET, ON OCTOBER 4, 18, AND 25, 2003 FROM 12:00 P.M. (OR 2 HOURS BEFORE KICKOFF) TO 7:00 P.M. - PRIOR to reading:

SVOBODA Moved to add the following stipulations to Special Designated Liquor license:

5. Ensure cooking and hot holding equipment are properly barricaded from public. Provide at least one handicap accessible portable toilet.
6. Maximum occupancy 80 people. Add 2<sup>nd</sup> exit at southeast corner cooking grill to be at least 10' from building and propane tank secured. Shall have 40 BC fire extinguisher at grill.

Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

CLERK Read the following resolution, introduced by Glenn Friendt, who moved its adoption for approval:

A-82330 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City council recommends that the application of Barrymore's for a Special Designated License to cover an area measuring 60 feet by 20 feet in the alley at 134 North 13<sup>th</sup> Street, Lincoln, Nebraska, on October 4, 18, and 25, 2003, between the hours of 12:00 p.m. and 7:00 p.m., (two hours prior to kick off), be approved with the condition that the applicant and premise complies in every respect with all City and State regulations and with the following requirements:

1. Identification shall be checked on all parties wishing to consume alcohol.
2. Adequate security shall be provided for the event.
3. The area requested for the permit shall be separated from the public by a fence or other means.
4. Responsible alcohol service practices shall be followed.
5. Ensure cooking and hot holding equipment are properly barricaded from public. Provide at least one handicap accessible portable toilet.

6. Maximum occupancy 80 people. Add 2<sup>nd</sup> exit at southeast corner cooking grill to be at least 10' from building and

propane tank secured. Shall have 40 BC fire extinguisher at grill.

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPLICATION OF DELRAY BALLROOM AND LOUNGE FOR A CLASS I LIQUOR LICENSE AT 817 R STREET - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption for approval:

A-82331 BE IT RESOLVED by the City council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of DelRay Ballroom and Lounge for a Class "I" liquor license at 817 R Street, Lincoln, Nebraska, for the license period ending April 30, 2004, be approved with the condition that the premise complies in every respect with all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Glenn Friendt

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

MANAGER APPLICATION OF MICHAEL SCOTT GALLOWAY FOR DELRAY BALLROOM AND LOUNGE AT 817 R STREET - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption for approval:

A-82332 WHEREAS, DelRay Ballroom located at 817 R Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Michael Scott Galloway be named manager;

WHEREAS, Michael Scott Galloway appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Michael Scott Galloway be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Glenn Friendt

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPLICATION OF BENCHMARK REDEVELOPMENT, INC. DBA BUZZARD BILLY'S ARMADILLO BAR/GRILL FOR AN ADDITION TO ITS LICENSED PREMISE OF THE BASEMENT AREA MEASURING 65' BY 64', MAKING THE LICENSED PREMISES READ AS THE SOUTH HALF OF THE MAIN FLOOR 70' BY 85' OF A THREE STORY BUILDING, PLUS LOADING DOCK PATIO AREA APPROXIMATELY 20' BY 70' TO THE EAST SIDE OF THE BUILDING, PLUS THE BASEMENT AREA MEASURING 65' BY 64' ON PROPERTY GENERALLY LOCATED AT 247 N. 8TH STREET, SUITE 101 - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption for approval:

A-82333 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Benchmark Redevelopment, Inc. dba Buzzard Billy's Armadillo Bar/Grill to expand its licensed premises by the addition of the basement area measuring 65 feet by 64 feet, making the licensed premises read as the south half of the main floor 70 feet by 85 feet of a three story building, plus loading dock patio area approximately 20 feet by 70 feet to the east side of the building, plus the basement area measuring 65 feet by 64 feet, located at 247 N. 8<sup>th</sup> Street, Suite 101, Lincoln, Nebraska, be approved with the condition that the premise complies in every respect with all City and State regulations.

BE IT FURTHER RESOLVED that the City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Glenn Friendt



Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

**ORDINANCES - 2ND READING**

DECLARING THE FORMER UNION PACIFIC RIGHT-OF-WAY BETWEEN 30TH ST. AND 33RD ST., CONSISTING OF APPROX. 1.5 ACRES, AS SURPLUS PROPERTY AND AUTHORIZING THE EXCHANGE THEREOF - CLERK read an ordinance, introduced by Jonathan Cook, declaring approximately 1.5 acres of City-owned property generally located between 30<sup>th</sup> and 33<sup>rd</sup> Streets north of Peter Pan Park as surplus and authorizing the conveyance thereof to Rose Investments, Inc., the second time.

CHANGE OF ZONE 3416 - APP. OF WITHERBEE NEIGHBORHOOD ASSOC. FOR A CHANGE FROM R-4 RESIDENTIAL TO R-2 RESIDENTIAL ON PROPERTY GENERALLY LOCATED BETWEEN THE WEST SIDE OF S. 37TH ST. AND THE EAST SIDE OF S. 42ND ST., FROM J ST. TO RANDOLPH ST., CONSISTING OF APPROX. 12 BLOCKS - CLERK read an ordinance, introduced by Jonathan Cook, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

APPROVING A FOUR-YEAR LEASE AGREEMENT BETWEEN THE CITY AND CAPITAL TOWING INC. FOR A VEHICLE IMPOUND LOT LOCATED AT 101 CHARLESTON ST. (IN CONNECTION W/03R-249)- CLERK read an ordinance, introduced by Jonathan Cook, accepting and approving a Lease Agreement between the City of Lincoln and Capital Towing, Inc. for the lease of City owned property for use as an impound lot for towed vehicles, the second time.

**RESOLUTIONS**

ACCEPTING THE REPORT OF NEW & PENDING CLAIMS AGAINST THE CITY & APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF AUGUST 1 - 15, 2003. (9/8/03 - Claim of Stephanie Byrd Placed on Pending & Con't. P. H. in 2 Weeks to 9/22/03) - PRIOR to reading:

MCROY Moved to delay action Bill 03R-233C and con't p.h. in one week on 9/29/03.

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

AUTHORIZING THE USE OF THE PUBLIC RIGHT-OF-WAY FOR THE REPLACEMENT OF A TRUCK DOCK AT MEADOW GOLD DAIRIES ON S. 7TH ST. BETWEEN L AND M ST. - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82334 WHEREAS, Meadow Gold Dairies has submitted an application for a permit to use the public right-of-way at South 7th Street between L and M Streets, for replacement of a truck dock; and

WHEREAS, said applicant has submitted a letter of application and a site plan which are attached hereto, marked as Exhibit "A" and Exhibit "B" respectively, and made a part of this resolution by reference, to use the public right-of-way as above described; and

WHEREAS, said applicant has complied with all of the provisions of Chapter 14.54 of the Lincoln Municipal Code pertaining to such use.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application aforesaid of Meadow Gold Dairies to use the public right-of-way at 7th Street between L and M Streets for the purpose of constructing a dock, be granted as a privilege only by virtue of and subject to strict compliance with the site plan, the letter of application, and the following terms and conditions, to wit:

1. That the permission herein granted is granted as a privilege only, and is subject to all the terms and conditions of Chapter 14.54 of the Lincoln Municipal Code including those provisions relating to the posting of a continuing bond in the amount of \$5,000, the filing of a certificate of insurance with a minimum combined single limit of

\$500,000.00 aggregate for any one occurrence, and the payment of the annual fee for the use of the surface of the public right-of-way fixed at ten percent of the square foot value of the lot directly abutting such use multiplied by the square footage of the use of the space.

2. That said use shall be in full accordance with the aforesaid application, the site plan filed therewith, and with all applicable City ordinances and regulations.

3. The applicant, its heirs, successors or assigns shall save and keep the City free and harmless from any and all loss or damages or claims for damages arising from or out of the use of the public way requested herein.

4. That all work done under the authority of this resolution shall be subject to the inspection and approval of the Director of Public Works of the City of Lincoln.

5. The use of the public way herein granted and the terms and conditions of this resolution shall be binding and obligatory upon the above-named applicant, its successors and assigns.

6. That within thirty (30) days from the adoption of this resolution, and before commencing any construction under the provisions hereof, the above-named applicant shall file an unqualified written acceptance of all the terms and conditions of this resolution with the City Clerk. Failure to do so will be considered a rejection hereof and all privileges and authorities hereunder granted shall thereupon automatically terminate.

Introduced by Glenn Friendt

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPOINTING JAMES F. SCHULTZ TO THE GOVERNMENT ACCESS AND INFORMATION COMMITTEE TO FILL AN UNEXPIRED TERM EXPIRING JAN. 1, 2004 - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82335 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of James F. Schultz to the Government Access and Information Committee to fill an unexpired term expiring January 1, 2004 is hereby approved.

Introduced by Glenn Friendt

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

REAPPOINTING CHRISTI CHAVES, JANET COLEMAN, AND MARTY RAMIREZ, PH.D. TO THE COMMUNITY HEALTH ENDOWMENT BOARD OF TRUSTEES FOR THREE-YEAR TERMS EXPIRING SEPT. 1, 2006 - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82336 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Christi Chaves, Janet Coleman, Marty Ramirez, Ph.D. to the Community Health Endowment Board of Trustees for three-year terms expiring September 1, 2006 is hereby approved.

Introduced by Glenn Friendt

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPOINTING GREGORY W. KEY TO THE CITIZEN POLICE ADVISORY BOARD TO FILL AN UNEXPIRED TERM EXPIRING NOV. 17, 2005 - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82337 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Gregory W. Key to the Citizen Police Advisory Board to fill an unexpired term expiring November 17, 2005 is hereby approved.

Introduced by Glenn Friendt

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPROVING A FOUR-YEAR CONTRACT BETWEEN THE CITY AND CAPITAL TOWING INC. FOR VEHICULAR TOWING AND STORAGE. (In connection w/03-147) - PRIOR to reading:

SVOBODA Moved to delay action on Bill No. 03R-249 for one week to 9/29/03.

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MON., OCTOBER 6, 2003 AT 1:30 P.M. FOR THE APP. OF CHAD & KIRA GOERTZEN DBA ZEN'S FOR A LIQUOR CATERING LICENSE LOCATED AT 122 N. 11 STREET, SUITE 2 - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82338 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., October 6, 2003 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for the purpose of considering the Application of Chad & Kira Goertzen dba Zen's for a liquor catering license located at 122 N. 11<sup>th</sup> Street, Suite 2.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Glenn Friendt

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MON. OCTOBER 6, 2003 AT 1:30 P.M. FOR THE APP. OF JAN-AL INC. DBA SIMPLY PARADISE SOCIAL HALL FOR AN ADDITION TO THEIR LICENSED PREMISE (5' 2" X 17' 6") LOCATED AT 3235 NORTH 35<sup>TH</sup> STREET - CLERK Read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82339 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., October 6, 2003 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for the purpose of considering the Application of Jan-Al, Inc. dba Simply Paradise Social Hall for an addition to their licensed premises (16' x 5') located at 3235 N. 35<sup>th</sup> St.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Glenn Friendt

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, OCTOBER 6, 2003 AT 1:30 P.M. FOR THE APP. OF OVERSTREET, INC. DBA T'S STOP & SHOP FOR A CLASS B LIQUOR LICENSE, LOCATED AT 1301 N. 27<sup>TH</sup> STREET - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82340 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., October 6, 2003 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for the purpose of considering the Application of Overstreet, Inc. dba T's Stop & Shop for a Class B liquor license located at 1301 N. 27<sup>th</sup> Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Glenn Friendt

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SPECIAL PERMIT 638A - APP. OF CARLOS LAKE L.L.C. TO EXPAND AN EXISTING PARKING LOT IN A RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT S. 55<sup>TH</sup> ST. & SOUTH ST. (In connection w/03-142, 03R-240) - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82342 WHEREAS, Carlos Lake, L.L.C. has submitted an application designated as Special Permit No. 638A for authority to construct an expanded parking lot in a residential district on property located at South 55th Street and South Street, and legally described to wit:

Lots 3 through 6, Block 9, Second Addition to Normal located in the Northeast Quarter of Section 32, Township 10 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, and more particularly described as follows:

Beginning at the northwest corner of said Lot 6; thence in a southerly direction along the west line of said Lot 6, on an assumed bearing of south 00 degrees 20 minutes 10 seconds west, for a distance of 141.68 feet to the southwest corner of said Lot 6; thence south 89 degrees 55 minutes 49 seconds east, for a distance of 199.56 feet to the southeast corner of said Lot 3; thence north 00 degrees 00 minutes 44 seconds west, along the east line of said Lot 3, for a

distance of 142.12 feet to the northeast corner of said Lot 3; thence south 89 degrees 56 minutes 36 seconds west, for a distance of 198.70 feet to the point of beginning; said property contains 0.65 acres, more or less;

WHEREAS, the real property adjacent to the area included within the site plan for this expanded parking lot will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of Carlos Lake, L.L.C., hereinafter referred to as "Permittee", to construct an expanded parking lot in a residential district, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.170 of the Lincoln Municipal Code upon condition that construction and operation of said parking lot be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves a parking lot in a residential district.
2. Before receiving building permits:
  - a. The Permittee must submit a revised and acceptable site plan including five copies to the Planning Department.
  - b. The construction plans must conform to the approved plans.
3. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
4. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.
5. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.
6. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however, all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Introduced by Glenn Friendt

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

Councilwoman Newman commented that this item is a great project and am happy to see revitalization of areas that needs some pumping up, but for the record I think there was discussion of some medical facilities and I want it on the record that we do want to make sure that there is sufficient parking made available.

USE PERMIT 153 - APP. OF CARLOS LAKE L.L.C. TO DEVELOP MIDTOWN BUSINESS PARK CONSISTING OF TWO 5,000 SQ. FT. OFFICE/MEDICAL BUILDINGS, WITH REQUESTED WAIVERS TO THE ALLOW LOTS THAT DO NOT HAVE FRONTAGE OR DIRECT ACCESS TO A PUBLIC OR PRIVATE ROADWAY, ON PROPERTY GENERALLY LOCATED AT S. 55TH ST. & SOUTH ST. (In connection w/03-142, 03R-239) - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82343 WHEREAS, Carlos Lake, L.L.C. has submitted an application in accordance with Section 27.28.090 of the Lincoln Municipal Code designated as Use Permit No. 153 for authority to construct two 5,000 square foot office/medical buildings and to waive the requirement that

lots have frontage and direct access to a public street or private roadway on property generally located at S. 55th Street and South Street, and legally described to wit:

Lots 98 and 99, Woods Brothers Fairview Acres in the Northeast Quarter of Section 32, Township 10 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska and more particularly described as follows: Beginning at the southwest corner of said Lot 99; thence on a northerly direction, along the west line of said Lot 99, on an assumed bearing of north 00 degrees 17 minutes 22 seconds east, for a distance of 236.29 feet to the northwest corner of said Lot 99; thence south 89 degrees 57 minutes 19 seconds east, for a distance of 158.79 feet to the northeast corner of said Lot 99; thence south 00 degrees 20 minutes 10 seconds west, for a distance of 236.16 feet to the southeast corner of said Lot 99; thence north 90 degrees 00 minutes 00 seconds west, for a distance of 158.60 feet to the point of beginning; said property contains 0.86 acres, more or less;

WHEREAS, the real property adjacent to the area included within the site plan for these office/medical buildings will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of Carlos Lake, L.L.C., hereinafter referred to as "Permittee", to construct two 5,000 square foot office/medical buildings be and the same is hereby granted under the provisions of Section 27.28.090 of the Lincoln Municipal Code upon condition that construction and operation of said office/medical buildings be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves two 5,000 square foot office/medical buildings.
2. The requirement of Section 26.23.140(g) of the Lincoln Municipal Code that every lot shall front upon and have access to a public street or private roadway is hereby waived.
3. Before receiving building permits:
  - a. The Permittee must submit a revised acceptable final plan and five copies to the Planning Department.
  - b. The construction plans must conform to the approved plans.
4. Before occupying this building all development and construction must conform to the approved plans.
5. All privately-owned improvements, including landscaping is to be permanently maintained by the Permittee or an appropriately established association approved by the City.
6. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
7. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, and its successors and assigns. The building official shall report violations to the City Council which may revoke this use permit or take such other action as may be necessary to gain compliance.
8. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of this use permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving this use permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.
9. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however, all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Introduced by Glenn Friendt

Seconded by Svoboda & carried by the following vote: AYES: Camp,

Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

#### PETITIONS & COMMUNICATIONS

RE-SETTING THE PUBLIC HEARING DATE ON APPEAL DENIAL OF REQUEST FOR CATEGORICAL EXEMPTION FROM IMPACT FEES SUBMITTED BY PETER KATT ON BEHALF OF MARY JO LIVINGSTON AND MOUNT OLIVE EVANGELICAL CHURCH FOR MONDAY, OCTOBER 20, 2003 AT 1:30 P.M. - CLERK requested a motion to re-set the date.

FRIENDT So moved.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

#### The following items have been referred to the Planning Dept.:

SPECIAL PERMIT NO. 1423I - APP. OF HIMARK GOLF LLC FOR A SPECIAL PERMIT TO AMEND THE CUP TO REPLACE THE 272 MULTI FAMILY UNITS WITH 31 SINGLE FAMILY ATTACHED LOTS AND 2 GOLF HOLES ON PROPERTY LOCATED AT THE CORNER OF 84<sup>TH</sup> & OLD CHENEY ROAD.

SPECIAL PERMIT 2032 - APP. OF THN, LLC FOR A SPECIAL PERMIT TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION OFF THE PREMISES AT PROPERTY LOCATED AT 2535 O STREET.

SPECIAL PERMIT 2033 - APP. OF THN, LLC FOR A SPECIAL PERMIT TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES AT PROPERTY LOCATED AT 2535 O STREET.

SPECIAL PERMIT 2034 - APP. OF PAUL & ROCHELLE MARKEY TO ATTACH THE HOUSE TO THE GARAGE FOR THE USE OF A HANDICAPPED PERSON AT PROPERTY LOCATED AT 2440 NW 2<sup>ND</sup> STREET.

SPECIAL PERMIT 2035 - APP. OF PETER & GALINA OPANASYUK TO BUILD AN ADDITION TO EXISTING HOUSE WITH A 2 FOOT SIDE YARD SETBACK ON PROPERTY LOCATED AT 446 E STREET.

#### REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY COUNCIL ON SEPTEMBER 15, 2003 - CLERK presented said report which was placed on file in the Office of the City Clerk.

INVESTMENT OF FUNDS FOR THE WEEK OF SEPTEMBER 8 THROUGH SEPTEMBER 12, 2003.

CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82341 BE IT RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the attached list of investments be confirmed and approved, and the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council.

Introduced by Glenn Friendt

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

REPORT OF CITY TREASURER OF OCCUPATION TAX FOR THE MONTH OF JULY, 2003:  
ALYON TECHNOLOGIES, INC.; QUANTUM SHIFT COMMUNICATIONS; T-NETIX TELECOM  
SERVICES, INC.; IBM GLOBAL SERVICES - NS DIV., ; UNITED SYSTEMS ACCESS  
TELECOM; STAR NUMBER, INC.; ALLTEL SYSTEMS OF THE MIDWEST, INC.; ALLTEL  
COMMUNICATIONS OF NEBRASKA, INC.; ALLTEL NEBRASKA, INC.; FOR THE MONTH  
OF AUGUST, 2003: D & D COMMUNICATIONS, INC.; NPCR, INC.; VARTEC;  
GLYPHICS COMMUNICATIONS, INC. AND OCMC, INC. - CLERK presented said  
report which was placed on file in the Office of the City Clerk. (20)

REPORT OF CITY TREASURER OF FRANCHISE TAX FOR THE MONTH OF AUGUST, 2003 FROM  
AQUILA - CLERK presented said report which was placed on file in the  
Office of the City Clerk.

REPORT OF NEBRASKA DEPARTMENT OF ROAD 2004-2009 SURFACE TRANSPORTATION  
PROGRAM - CLERK presented said report which was placed on file in the  
Office of the City Clerk.

**ORDINANCES - 1<sup>ST</sup> READING**

CHANGE OF ZONE 3414 - APPLICATION OF JOHN, JANICE, AND GARY VERMAAS FOR A  
CHANGE OF ZONE FROM P PUBLIC USE DISTRICT TO O-3 OFFICE PARK DISTRICT ON  
PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF PIONEERS  
BOULEVARD AND HIGHWAY 2. (In connection w/03R-250) - CLERK read the  
following ordinance, introduced by Glenn Friendt, for Change of Zone  
3414, Application of John, Janice and Gary Vermaas for a change of zone  
from P Public Use District to O-3 Office Park District on Property  
generally located northeast of the intersection of Pioneers Boulevard  
and Highway 2, the first time.

AMENDING CHAPTER 8.20 OF THE LINCOLN MUNICIPAL CODE TO ADOPT CHANGES TO  
CONFORM THE LINCOLN FOOD CODE TO NEW STATE FOOD CODE - CLERK read the  
following ordinance, introduced by Glenn Friendt, amending Chapter 8.20  
of the Lincoln Municipal Code to adopt changes to conform the Lincoln  
Food Code to new State Food Code, the first time.

APPROVING A THREE-YEAR/6,000 HOUR LEASE AGREEMENT BETWEEN THE CITY AND  
CATERPILLAR FINANCIAL SERVICES CORPORATION FOR A 627G CATERPILLAR  
SCRAPER - CLERK read the following ordinance, introduced by Glenn  
Friendt, approving a three-year/6,000 hour lease agreement between the  
City and Caterpillar Financial Services Corporation for a 627G  
caterpillar scraper, the first time.

**ORDINANCES - 3<sup>RD</sup> READING**

APPROVING A SUBLEASE AGREEMENT BETWEEN THE CITY & LINCOLN ACTION PROGRAM FOR A  
SUBLEASE OF SPACE AT THE ONE STOP CENTER, 1010 N ST., TO PROVIDE JOB  
TRAINING & EMPLOYMENT SERVICES UNDER THE WORKFORCE INVESTMENT ACT -  
CLERK read the following ordinance, introduced by Terry Werner,  
approving a sublease agreement between the City and Lincoln Action  
Program for a sublease of space at the One Stop Center, 1010N St., to  
provide job training & employment services under the Workforce  
Investment Act, the third time.

WERNER Moved to pass the ordinance as read.

Seconded by Svoboda & carried by the following vote: AYES: Camp,  
Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

The ordinance being numbered **#18241** is recorded in Ordinance Book No.259, Page

AMENDING THE PAY SCHEDULE FOR A CERTAIN EMPLOYEE GROUP PREFIXED BY THE LETTER  
E BY CHANGING THE JOB CLASSIFICATION OF WORKERS' COMPENSATION CLAIMS  
ASSISTANT TO WORKERS' COMPENSATION CLAIMS SPECIALIST - CLERK read the  
following ordinance, introduced by Terry Werner, amending the pay  
schedule for a certain employee group prefixed by the letter E by  
changing the job classification of Workers' compensation Claims  
assistant to Workers' Compensation Claims Specialist, the third time.

WERNER Moved to pass the ordinance as read.

Seconded by Svoboda & carried by the following vote: AYES: Camp,  
Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

The ordinance being numbered **#18242** is recorded in Ordinance Book No.259, Page

AMENDING THE PAY SCHEDULE FOR A CERTAIN EMPLOYEE GROUP PREFIXED BY THE LETTER

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M BY CREATING THE JOB CLASSIFICATION OF WORKERS' COMPENSATION COORDINATOR - CLERK read the following ordinance, introduced by Terry Werner, amending the pay schedule for a certain employee group prefixed by the letter M by creating the job classification of Workers' Compensation Coordinator, the third time.

WERNER Moved to pass the ordinance as read.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

The ordinance being numbered **#18243** is recorded in Ordinance Book No.259, Page

AMENDING THE PAY SCHEDULE FOR A CERTAIN EMPLOYEE GROUP PREFIXED BY THE LETTER A BY CREATING THE JOB CLASSIFICATION OF LEARNING CENTER SUPERVISOR - CLERK read the following ordinance, introduced by Terry Werner, amending the pay schedule for a certain employee group prefixed by the letter A by creating the job classification of learning center supervisor, the third time.

WERNER Moved to pass the ordinance as read.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

The ordinance being numbered **#18244** is recorded in Ordinance Book No.259, Page

AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROX. 1.06 ACRES OF PROPERTY GENERALLY LOCATED AT 1501 W. VAN DORN STREET - CLERK read the following ordinance, introduced by Terry Werner, amending the Lincoln Corporate Limits map by annexing approx. 1.06 acres of property generally located at 1501 W. Van Dorn Street, the third time.

WERNER Moved to pass the ordinance as read.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

The ordinance being numbered **#18245** is recorded in Ordinance Book No.259, Page

CHANGE OF ZONE 3417 - APP. OF CARLOS LAKE L.L.C. FOR A CHANGE FROM R-2 RESIDENTIAL DISTRICT TO R-T RESIDENTIAL TRANSITION DIST., ON PROPERTY GENERALLY LOCATED AT S. 55TH ST. & SOUTH ST. (In connection w/03R-239, 03R-240) - CLERK read the following ordinance, introduced by Terry Werner, for Change of zone 3417 - App. of Carlos Lake L.L.C. for a change from R-2 residential district to R-T Residential Transition Dist., on property generally located at S. 55<sup>th</sup> St. & South St., the third time.

WERNER Moved to pass the ordinance as read.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

The ordinance being numbered **#18246** is recorded in Ordinance Book No.259, Page

AMENDING SECTIONS 26.19.020 & 26.31.010 OF THE LINCOLN MUNICIPAL CODE TO MODIFY THE PROCEDURE FOR GRANTING MODIFICATIONS OF SUBDIVISION REQUIREMENTS & PROVIDING AN APPEAL PROCESS THEREFOR - CLERK read the following ordinance, introduced by Terry Werner, amending Sections 26.19.020 & 26.31.010 of the Lincoln Municipal Code to modify the procedure for granting modifications of subdivision requirements and providing an appeal process therefor, the third time.

WERNER Moved to pass the ordinance as read.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

The ordinance being numbered **#18247** is recorded in Ordinance Book No.259, Page

APPROVING THE LICENSE AGREEMENT BETWEEN THE CITY & ALLTEL COMMUNICATIONS TO LOCATE TELECOMMUNICATIONS FACILITIES ON A CITY WATER TOWER ON PROPERTY LOCATED AT AIR PARK - CLERK read the following ordinance, introduced by Terry Werner, approving the license agreement between the City and Alltel Communications to locate telecommunications facilities on a city water tower on property located at Air Park, the third time.

WERNER Moved to pass the ordinance as read.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

The ordinance being numbered **#18248** is recorded in Ordinance Book No.259, Page

MISCELLANEOUS BUSINESS

PENDING -



SVOBODA Moved to extend the Pending List to September 29, 2003.  
Seconded by Cook & carried by the following vote: AYES: Camp,  
Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

**UPCOMING RESOLUTIONS -**

ORDERING ORNAMENTAL LIGHTING DISTRICT NO. 286 CONSTRUCTED, BEING SOUTH 20<sup>TH</sup>  
STREET TO SOUTH 27TH STREET, VAN DORN STREET TO HIGH STREET - CLERK  
requested a motion:

FRIENDT Moved to have Public Hearing on 9/29/03 & 10/06/03 with possible  
action on 10/6/03.

Seconded by Cook & carried by the following vote: AYES: Camp,  
Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SVOBODA Moved to approve the resolutions to have Public Hearing on  
September 29, 2003.

Seconded by Cook & carried by the following vote: AYES: Camp,  
Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

**ADJOURNMENT 5:35 P.M.**

SVOBODA Moved to adjourn the City Council meeting of September 22, 2003.  
Seconded by Cook & carried by the following vote: AYES: Camp,  
Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.  
So ordered.

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Joan Ross, City Clerk, CMC

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Glenna Graupmann, Senior Office Assistant

REGULAR MEETING  
September 22, 2003  
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